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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,237	03/26/2004	Matthew J. Banet	0114079.00144US1	1767
78994 7590 09/15/2008 WilmerHale/Triage Wireless 60 State Street Boston, MA 02109				
EXAMINER SORIANO, BOBBY GILES				
ART UNIT 4158		PAPER NUMBER		
MAIL DATE 09/15/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/810,237

Applicant(s)

BANET, MATTHEW J.

Examiner

BOBBY SORIANO

Art Unit

4158

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-85/86)
- Paper No(s)/Mail Date 3/27/2006, 3/26/2004
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 to 18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The subject matter claimed is considered non-statutory because the subject matter is drawn to computer program code (functional descriptive material) per se, which does not fall within one of the classes of statutory eligible subject matter (article of manufacture, composition of matter, process or machine). Further, even if the claims were to recite the code in combination with a computer readable medium, the code itself is not necessarily a machine implemented process and would not produce a useful, concrete, and tangible result.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 12 recites the limitation "stateless" in regards to a Java session bean. There is insufficient antecedent basis for this limitation in the claim. The applicant fails to mention in the description of the invention the definition of the term

"stateless" and therefore one of ordinary skill in the art would not be able to determine the scope of the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Kumar (US Patent Application 2002/0198473 A1). In the mentioned reference the inventor discloses the following:

- a. A system for monitoring blood pressure comprising: a gateway software system that receives blood pressure information transmitted wirelessly from a body-worn device (device 102 in Fig. 1A as described in paragraph [0071] and device 110 in Fig. 1A anticipating the gateway software system);
- b. a database that receives blood pressure information from the gateway software system (device 106 in Fig. 1A as described by paragraph [0083]);
- c. and a web services software interface that, in response to a request from a secondary software system, retrieves the blood pressure information or derivative thereof from the database (device 108 in Fig. 1A as described by paragraph [0067]).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 2 to 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumar (US Patent Application 2002/0198473 A1) as applied to claims 1 and 18 above, in view of Lynn (US Patent Application 2003/0000522 A1), and further in view of Northrup (US Patent Application 2003/0172127 A1).

9. Kumar discloses all of the claim limitations as set forth in claims 1 and 18 above. Additionally, the reference discloses the use of Java and Java servlets by the web services software in one embodiment of the invention (paragraph [0087]).

10. What Kumar does not disclose is the use of an application-independent format such as XML or SOAP or computer code that processes WSDL files.

11. However, Lynn discloses a centralized hospital monitoring system that is remotely accessed through the use of software language mechanisms such as Java,

proprietary operating system protocols such as Microsoft's DCOM, or through industry standard non-proprietary protocols such as SOAP [Simple Object Access Protocol] or WSDL [Web Service Definition Language] (paragraph [0224]).

12. Northrup discloses a computer networking directory service that uses RCP [remote procedure call] implementations when a user requests the execution of an application on a remote computer system (paragraph [0190]). Furthermore other methods of networking communication such as SOAP are mentioned along with XML (paragraphs [0215], [0257], and [0278]).

13. Kumar, Lynn, and Northrup are combinable because they are concerned with the same field of endeavor, namely remote monitoring of physiological signals.

14. Therefore it would have been obvious to one skilled in the art at the time of the invention to use an application-independent format such as XML and SOAP along with Java in Kumar's system that measured blood pressure to communicate with a database and a web services software interface. As disclosed both by Lynn and Northrup in the paragraphs cited above the XML protocol, the use of RPC SOAP, and Java are all industry standard techniques in data communication. And although the functions performed by the mentioned software are not explicitly stated in the prior art, one skilled in the art would have had the knowledge of their functions regarding data processing. It is for this reason that claims 2 to 17 do not have any patentable weight and are therefore rejected.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BOBBY SORIANO whose telephone number is (571)270-7030. The examiner can normally be reached on Monday thru Friday, 7:30am to 4:30pm Alternate Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jackson can be reached on 571-272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. S./
Examiner, Art Unit 4158
8/27/2008

/Gary Jackson/
Supervisory Patent Examiner
Art Unit 4158

